

ORDER NO. 1691

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
International Business Reply Service Competitive
Contract 3 (MC2011-21)
Negotiated Service Agreements

Docket No. CP2013-58

NOTICE AND ORDER CONCERNING
AN ADDITIONAL INTERNATIONAL BUSINESS REPLY SERVICE
COMPETITIVE CONTRACT 3 NEGOTIATED SERVICE AGREEMENT

(Issued April 5, 2013)

I. INTRODUCTION

On April 4, 2013, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional International Business Reply Service (IBRS) Competitive Contract 3 negotiated service agreement (Agreement).¹ It seeks to have the Agreement included within the existing IBRS Competitive Contract 3 product

¹ Notice of United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, April 4, 2013 (Notice).

on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2011-59.² Notice at 4-6.

II. CONTENTS OF FILING

Agreement. The Postal Service states that the Agreement is the successor to the agreement included in the IBRS Competitive Contract 3 product in Docket No. CP2012-17, and is on behalf of the same customer as in Docket No. CP2012-17. *Id.* at 3.

The Postal Service filed the following material in conjunction with its Notice:

- Attachment 1—a copy of the Agreement;
- Attachment 2—the certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a copy of Governors' Decision No. 08-24; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Attachments 1 through 3 were filed in redacted (public) and unredacted (sealed) versions.

Effective date; duration. The Postal Service intends the Agreement to take effect April 24, 2013. *Id.* The Agreement expires 1 year after its effective date unless terminated earlier. *Id.* at 4.

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement filed in Docket No. CP2011-59 because it shares similar cost and market characteristics and meets the criteria in Governors' Decision No. 08-24 concerning attributable costs. *Id.* The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* It states that prices offered under

² See Docket Nos. MC2011-21 and CP2011-59, Order No. 684, Order Approving International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 28, 2011.

the Agreement may differ from other IBRS 3 contracts due to differences in volume, postage commitments, and pricing at the time of the Agreement's execution, but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 5.

The Postal Service states that there are differences between the terms of the two agreements, but characterizes them as minor, and asserts that they do not affect the fundamental service being offered or the fundamental structure of the Agreement.³ *Id.*

III. NOTICE OF PROCEEDING

The Commission establishes Docket No. CP2013-58 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR 3020 subpart b, 39 CFR 3015.5, and the policies of 39 U.S.C. 3632, 3633, and 3642. Comments are due no later than April 12, 2013. The public portions of this filing can be accessed via the Commission's website, <http://www.prc.gov>. Information on how to obtain access to material filed under seal appears in 39 CFR part 3007.

The Commission appoints Lawrence Fenster to serve as Public Representative in the captioned proceeding.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. CP2013-58 for consideration of the matters raised by the Postal Service's Notice.

³ Differences include an additional phrase in Article 15, captioned Confidentiality, stating that the Postal Service may be required to file information (such as revenue, cost or volume data) related to the Agreement in other Commission dockets and an additional Article 30, captioned Intellectual Property, Co-Branding and Licensing). *Id.* at 5-6.

2. Comments by interested persons in this proceeding are due no later than April 12, 2013.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Lawrence Fenster to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary